

San Francisco Bay Conservation and Development Commission

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TO: Design Review Board Members

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**SUBJECT: Middle Harbor Shoreline Park Master Plan Update, Port of Oakland, Alameda County;
Second Pre-Application Review**
(For Design Review Board consideration on March 21, 2022)

Project Summary

Project Proponents

Port of Oakland (Port)

Project Representatives

Aaron McGregor, Jan Novak, Ramona Dixon, Richard Sinkoff, Laura Arreola, Port of Oakland (Property Owner and Project Proponent); Linda Gates, Michael Freitag, Gates and Associates (Consultants).

Project Location (Exhibits 4, 5)

The approximately 46-acre project site (site) is located within the Port of Oakland (Port) in a highly industrialized area of Oakland in Alameda County. The site is comprised of the approximately 40-acre Middle Harbor Shoreline Park (MHSP) and the approximately six-acre Port View Park (PVP), located immediately west of MHSP. The site is surrounded by Port facilities along its inland borders, including the Oakland International Container Terminal to the east, the TraPac Terminal to the north, Middle Harbor Road and the BNSF Railroad to the northeast, and the Ben E. Nutter Terminal to the west. Along its bayward edges, the site encircles the Middle Harbor Enhancement Area (MHEA), an approximately 189-acre subtidal habitat restoration area, and is bordered by the Oakland Estuary to the south.

Prior Review by Design Review Board

The Design Review Board (DRB) first reviewed the proposed project on July 12, 2021. At that time, the scope of the proposed project included changes to MHSP, but not to the neighboring PVP. The scope has since been expanded to include some proposed changes to PVP, though the significantly larger MHSP remains the emphasis of the project. All updates to the proposed project at both MHSP and PVP since the last DRB meeting are reflected in the updated project description below. In addition, following the project description is a brief section summarizing comments from the DRB received during the July 2021 meeting that have not been addressed in the latest proposal.



Project Site and Context

Site History (Exhibit 49)

The majority of the land at this site was once water, located on or near *Huchiu*, the traditional indigenous homeland of the Muwekma Ohlone people. During the Spanish colonization period, the site became part of *El Rancho de San Antonio*, an approximately 43,000-acre area granted in 1820 by the Spanish to Don Luis Maria Peralta. In 1874, a deep-water port was created at the site. During World War II, the MHSP portion of the site became controlled and used by the U.S. Navy as part of the Navy's 153-acre Fleet Industrial Supply Center, Oakland (FISCO).

In 1971, the Port constructed Port View Park (PVP) outside of the Navy-controlled FISCO area, in conjunction with the Port's new Seventh Street Terminal Complex. Initially 2.5 acres in area, the park closed in 1989 following damage from the Loma Prieta Earthquake. In 1995, the Port re-opened PVP and expanded it to approximately six acres, pursuant to the public access requirements of BCDC Permit No. 1991.012.02¹, which authorized a container terminal project at Berth 30.

In 1998, the Port took ownership of the former FISCO site from the Navy and planned the "Vision 2000 Maritime Development Program" (Vision 2000 Program) to redevelop the area and modernize and expand the Port's maritime facilities. Vision 2000 consisted of three main projects: 1) the Oakland Harbor Navigation Improvement Project, which deepened the Oakland Harbor to -50 feet (-50 Foot Project); 2) construction of the Joint Intermodal Terminal to increase rail efficiency; and 3) the Berths 55-58 Project, which involved development of a new marine cargo terminal with five new container ship berths.

In 1999, BCDC issued Permit No. 1999.007.00 to the Port for the Berths 55-58 project. The project involved a significant reconfiguration of the shoreline in and around the former FISCO area, including removing large areas of fill and adding new fill for the new terminal and the creation of MHSP, which was constructed in 2004 as the BCDC-required public access component of the project.

Furthermore, in 1998 and 2001, BCDC issued two Letters of Agreement for Consistency Determination Nos. C1998.010.00 and C2000.014.00 to the U.S. Army Corps of Engineers (USACE) for the -50 Foot Project and related sediment disposal and re-use at several areas around San Francisco Bay. Pursuant to these authorizations, approximately 5.8 million cubic yards of dredged sediment was used to create the approximately 189-acre MHEA, a shallow subtidal habitat restoration area that provides valuable marine wildlife and bird viewing opportunities to visitors of the adjacent parks.

The original design of MHSP was the result of a more than two-year public engagement process, in which the Port and its partners gathered feedback from surrounding West Oakland communities for incorporation into the MHSP Master Plan. The current MHSP Master Plan and Management Plan, as well as the current status of both MHSP and PVP, are described below.

¹ The Port estimates that Port View Park is six acres in area, but there are inconsistencies in BCDC Permit No. 1991.012.02, which alternately states the park measures 5.01 and 5.86 acres. The acreage will be confirmed and corrected as needed when amending the permit based on the changes proposed herein.

Existing Conditions (Exhibit 52)

MSHP (required under BCDC Permit No. 1997.007.09) is an existing, approximately 40-acre public shoreline park. It opened in 2004 and has since seen its annual visitation grow from 20,000 to approximately 60,000 visitors. The entire park is a BCDC-required public access area and provides public access to approximately 8,966 linear feet of previously existing and newly created shoreline.

PVP (required under BCDC Permit No. 1991.012.02) is an existing, approximately six-acre public shoreline park adjacent to (west of) MHSP. It re-opened in 1995 and provides BCDC-required public access along approximately 2,287 linear feet of shoreline. The park includes a range of required public access amenities, including benches, a fishing pier, a historic railroad building (Port View Tower), a play area, public parking, restroom, walkways, a viewing area, and related amenities.

Original MSHP Master Plan (Exhibit 50)

The original MHSP Master Plan describes the MHSP history and setting, community engagement process, goals, and design components. While the proposed project covers updates to both MHSP and PVP, the original MHSP Master Plan did not include changes to PVP (other than the Port View Park Connection), which was pre-existing at the time. According to the MHSP Master Plan, the stated community goals for the MHSP project were to:

- have direct access to the shoreline and the water for a range of activities;
- create a place for learning about the natural environment, local history, maritime activities, and stewardship of the environment;
- create an inviting place for a range of people with varying abilities, providing for both active and passive uses; and
- emphasize the unique aspects of the site—the shoreline, views, habitat, and maritime activity.

The stated Port goals were to:

- provide a long-term positive connection between the Port and the local community;
- have a place for public science education programs, especially for students in elementary and middle school;
- generate public awareness of the Vision 2000 Program, the -50 Foot and MHEA projects, and other maritime activities of the Port;
- have the MSHP actively used by the local community, terminal employees, and regional public; and
- provide a park that supports and utilizes the adjacent habitat enhancement area.

The MHSP Master Plan also described the key design elements of MHSP, including its four main sub-areas:

- **Point Arnold**, an “urban/active” area and the primary entrance to MHSP, including a preserved wharf and warehouse structure and a family-oriented setting for picnicking and playing;
- **Union Pacific (UP) Mole**, a “nature/passive” area which provides opportunities for walking, picnicking, fishing, and wildlife viewing. It includes the Chappelle Hayes Observation Tower (Observation Tower), which provides views of the Oakland Estuary, East Bay hills, Downtown Oakland, the San Francisco skyline, and Port facilities;
- **The Promenade**, a transition corridor between Point Arnold and the UP Mole, including an amphitheater, large lawns, and Oakland’s first beach; and
- **The Port View Park Connection**, a Bayside walking and bicycle path connecting MHSP to the adjacent PVP.

The MHSP Master Plan also included proposed offsite improvements to facilitate better access to MHSP (including construction of a proposed bicycle path from West Oakland), a system of trails connecting MHSP to PVP, and historic elements throughout MHSP (including FISCO artifacts). Outdoor educational programs for youth were also considered in the plan.

The MHSP Master Plan also envisioned construction of several buildings. Several of these buildings were never fully constructed, as described below:

- a restroom and snack bar at Point Arnold (partially constructed);
- research vessel boat docking facilities at the notch on the south end of the UP Mole (never constructed);
- an Observation Tower at the UP Mole with restrooms and elevator access (constructed);
- a park maintenance building (never constructed); and
- “Phase III” buildings, including an interpretive center/educational building, a biological field station, a community/conference center, and an interpretive center expansion (all never constructed).

Original MHSP Management Plan

A Management Plan was developed in conjunction with the MHSP Master Plan, and resulted in an agreement between the Port and the East Bay Regional Park District (EBRPD). EBRPD was engaged to manage MHSP because the Port did not have experience in managing a regional park of this scale. In the agreement, EBRPD committed to the general management, operation, and maintenance of MHSP in accordance with EBRPD policies, standards, and procedures, while the Port committed to building MHSP, obtaining necessary permits, leading community engagement and educational programming, and maintenance and repair of certain park elements, including but not limited to structural maintenance and certain utility facilities. The management agreement was implemented from 2003 until 2009, when it was terminated due to disagreements between EBRPD and the Port over the cost of maintaining MHSP. The Port has since directly managed MHSP.

Current MHSP Status and Challenges (Exhibit 52)

In 2019, at the request of BCDC enforcement staff, Port staff began working to address several permit compliance issues that BCDC had identified in past site visits, including several of the issues described below. Pursuant to negotiations between staff of both agencies, the Port has committed to resolving identified issues at MHSP, establishing a BCDC-approved process for managing special events, and conducting a full public process to complete and implement updates to the MHSP Master Plan, MSHP Management Plan, and the BCDC permit for MHSP. MHSP was generally built as envisioned in the Master Plan, with several notable exceptions, and continues to be a valuable resource and gathering area for surrounding communities. Below are the substantive issues which BCDC and the Port are working to resolve:

- Inadequate maintenance over the years has left several of the park's key features in deteriorated condition, including:
 - poor condition of the large lawns (due to inappropriate soil substrate as well as non-maintained, malfunctioning irrigation);
 - an inoperable elevator at the Observation Tower (at least 15 years out of service), making the tower inaccessible to those unable to climb the stairs; and
 - eroded, non-ADA-accessible trails and paved areas, including an accessible route to the beach;
- The park is underutilized and public access to it is limited, due to its relatively difficult-to-reach location within an active Port and the limited public transportation options and bicycle access;
- Strong winds and limited amenities negatively impact visitor dwell time in the park, while the wind and salty marine air make amenities and certain types of vegetation difficult to maintain;
- The created beach has failed to provide a shoreline for swimming, strolling, and sunbathing because the subtidal area consists of a semi-consolidated conglomeration of sand and mud;
- Several key amenities envisioned in the Master Plan and/or required in the BCDC permit were never built, as noted under "Original MSHP Master Plan" above. These improvements were envisioned as key elements for programming and connecting the community to MHSP;
- The Port does not currently have a BCDC-authorized process for handling large-scale special events at MSHP. For more than a decade, the Port held large, limited-access special events (concerts) at MHSP without BCDC authorization, which closed some or all of MHSP to the public. These paid concerts brought thousands of people to the waterfront, but did not sufficiently contemplate the possible impacts to the public and wildlife who also use the area.

Current PVP Status and Challenges

PVP was largely constructed as envisioned and required in the BCDC permit. Similar to MHSP, there exist several permit compliance issues at the site, including missing required public access amenities, unauthorized restrictions on hours of operation of the public access area, and general maintenance issues. The Port has been working with BCDC staff to address these existing compliance issues since 2021. The Port is also proposing new features at PVP to enhance public access at the site, described under "Proposed Project" below.

Social and Environmental Context

The Commission has developed a Community Vulnerability Mapping Tool to help inform its analysis of how socioeconomic indicators and contamination burdens contribute to a community's vulnerability. The mapping tool collects information at the level of Census blocks and is used by the Commission to help identify certain disadvantaged and vulnerable communities. These communities include those disproportionately affected by environmental pollution and hazards that may lead to negative public health effects or environmental degradation, as well as those with higher rates of socioeconomic characteristics indicative of social vulnerability.

There are no populated Census blocks directly at or adjacent to the site, as it is embedded deep within the Port. However, immediately east of the Port lies West Oakland, a neighborhood with a long history of environmental justice impacts from Port activities. The three West Oakland Census blocks located closest to the site fall into the "highest contamination vulnerability" category, and two of the three blocks are classified as "moderate" or "highest social vulnerability," due to high-percentile socioeconomic indicators including people with very low income, renters, single parents, and people with no vehicle. Further to the east, most of the Census blocks are likewise classified as having moderate to very high social and/or contamination vulnerability.

During the week, there is heavy port-related truck traffic around MHSP and PVP, and park visitation is limited. School groups, company picnics, port-related workers, and the occasional birder comprise most of the weekday use. On the weekends, when truck traffic at Port is reduced or closed, park visitation significantly increases as the roads to the park through the Port are essentially empty. People from all over the region come to experience the unique parks that afford sweeping views of the Bay, and are uniquely situated within the Port industrial area.

Proposed Project

MHSP Master Plan Update (Exhibits 6-45)

The proposed project involves updating both the Master Plan and Management Plan for MHSP. Since the last DRB meeting in July 2021, to complement the proposed improvements at MHSP, the Port has also proposed new elements at the neighboring PVP, some of which are in areas that were not part of the original MHSP Master Plan. With the proposed updates, the physical structure of MHSP and PVP would stay mostly the same, with the most significant changes occurring to the beach and lawn areas of MHSP.

Based on the community outreach the Port conducted, the proposed updates focus on five key objectives:

1. Enhancing outdoor educational opportunities,
2. Facilitating connections with nature,
3. Nurturing physical well-being,
4. Sharing the cultural heritage of the site, and
5. Supporting socializing and gathering activities.

Furthermore, since the July 2021 DRB meeting, the Port has separated the proposed improvements into three “levels,” as defined by the Port. The Port defines “Baseline Improvements” (Exhibit 7) as “Core park improvements associated with the MHSP permit,” including: refurbishments of existing signage and furniture, completion of the proposed 7th Street Bike and Pedestrian Pathway (see section entitled “Class I bicycle path along Middle Harbor Road” for more information), and other specific improvements as labeled on Exhibit 7. BCDC staff understands this to mean that the Port would complete these improvements without reliance on third party funding.

Further, the Port defines Level 1 improvements (Exhibit 8) as: “additional park improvements to enhance the experience of core user groups, dependent on additional third-party funding,” including bicycle racks, Wi-Fi, additional site furnishings, and other specific improvements as labeled on Exhibit 8. Level 2 improvements (also on Exhibit 8) are defined as, “further park improvements to attract new user groups, dependent on additional analysis and/or permitting, robust third-party partnerships, and governance,” including new interpretive signage, directories, and other specific improvements as labeled on Exhibit 8.

Below is a description of proposed general site improvements followed by a description of improvements at specific sections of the parks. Certain amenities from the original Master Plan were not built. In some cases, alternative amenities have been proposed as replacements, and are described below in the site-specific sections.

Park-wide improvements

Lawns and landscaping (Exhibits 43-45). To address the poor condition of the extensive lawns on site, the Port proposes removing much of the lawn and replacing it with native vegetation more suited to local conditions (including both irrigated and non-irrigated portions), as displayed on Exhibits 43-45. Some portions of lawn would remain (i.e., the Oval at Point Arnold and the area between the Educational Hub and the beach). Based on feedback from the DRB, the Port has indicated that they have performed soil testing and will pick an appropriate planting palette based on those results.

Interpretive Signage (Exhibit 36). In addition to refurbishing and updating existing signage at the site, the Port would add new interpretive signage and themed areas throughout the site describing the site’s cultural and environmental heritage, including its maritime and military history and the adjacent shallow subtidal habitat restoration effort. For example, storyboards and signage would be added related to sea level rise, World War II, the “Port’s world influence,” the transcontinental railroad terminus, dune habitats, and other topics. Four new park directories would also be added throughout MHSP.

Paving and Other Mobility Improvements (Exhibit 42). The Port would pave many of the existing deteriorated paths to increase their durability and accessibility and reduce maintenance needs. New paved paths would be added in the amphitheater area, and a new, flat surface material would replace the degraded paving on Point Arnold, highlighting the site’s former rail track and related history. In addition, new amenities would be added to enhance trail user experience, including bicycle racks, mile markers, and other features.

Port View Park and Port View Park Connection (Exhibits 15-19)

Dog Parks. In response to community feedback, the Port proposes to add two dog parks (one at PVP for small dogs and one at MHSP for big dogs), connected by a ½-mile on-leash dog route along the PVP Connection. Because the site encircles a significant habitat restoration area with valuable fish spawning and bird foraging habitat, the dog parks are proposed in areas that are currently least utilized by both wildlife and people. Based on public feedback, the Port anticipates these improvements will increase visitation of both MHSP and PVP. In addition, the presence of dogs may deter Canada Geese from using the site, which currently leave large amounts of droppings and also consume significant eelgrass quantities, thereby slowing the eelgrass restoration goals of the adjacent MHEA project.

Kayak Launch. In response to community feedback, the Port proposes to add a public kayak launch at the intersection of PVP and the PVP Connection to enhance water access to Middle Harbor. The Port led a tour of the site with the Bay Area Sea Kayakers in August of 2021, during which the proposed location was identified as the best location for a kayak launch within the Middle Harbor complex due to water depth at all tides, and upland logistics for parking and loading. BCDC staff would also work with the Port to ensure the site becomes part of the Bay Area Water Trail, if feasible.

Indoor Classroom. To increase the Port’s capabilities to provide outdoor education opportunities at the site, the Port is considering utilizing the existing Port View Tower as an indoor classroom during adverse weather.

Pop-Up Café. A new pop-up café is proposed to be added to the ground floor of the Port View Tower, if the proposed Master Plan updates increase park visitation to a level that a small café would be financially feasible. There was originally a snack bar on the ground floor of the tower, but it closed due to low park usage. The Port is also considering inviting food trucks to MHSP and PVP on certain evenings, which may increase park usership.

Point Arnold (Exhibits 20-24, 41)

Improved Paving and Landscaping. At Point Arnold, the Port proposes to add a smooth, uniform surface for improved cycling, skating, and roller blading. Landscaping at the site is also proposed to be improved through new grassland and shrub plantings.

Wind-Protected Spaces. To allow guests to linger for longer periods more comfortably, the Port proposes adding informal tree clusters to create “human scale” wind-protected spaces and several small, wind-protected picnic areas.

Additional Improvements. Additional proposed improvements may include: an additional picnic area, refurbished seating, a new nature-themed children’s play area in the oval adjacent to the picnic area, an “activated entry” at the park’s main entrance (Exhibit 41), and provision of public Wi-Fi for visitors. The Port also indicated that the park service center would be renovated (Exhibit 9) but did not provide additional detail.

Transient Dock. At the July 2021 DRB meeting, the idea of a transient dock at the north side of Point Arnold was discussed, with potential water taxi services. The Port has stated that water taxis and other motorized craft are not allowed in the Middle Harbor area based on the MHEA project guidelines, and are therefore not included in the park proposal.

Promenade, Amphitheater, and Beach (Exhibits 25-35)

Outdoor Education Hub. Based on feedback from the July 2021 DRB meeting and community outreach conducted, the Port proposes to emphasize outdoor educational opportunities, rather than the indoor education facilities foreseen in the original Master Plan. Designed with support from the current MHSP naturalist program director, an outdoor education hub is proposed in the Promenade area, including a centralized meeting area and breakout areas for smaller groups. The current amphitheater is proposed to be re-purposed as part of the education hub, with redesigned seating, imprinted paving, elements on seat walls, and additional paths and gathering areas to create a self-guided educational environment. Converted shipping containers, or similar structures, and architectural wind breaks are proposed to create a protected outdoor classroom and storage for educational programming.

Beach and Dune Area. The proposed design of the beach area has been updated significantly since the July 2021 meeting. To address the unsafe muddy conditions in the foreshore area of the beach and allow safe public access to the water, placement of additional sand fill is proposed at the northern half of the beach, significantly expanding the dry portion of the beach into the Bay. This update is proposed to be completed as part of the separate (adjacent) MHEA project, jointly managed by the Port and the USACE². In addition, a meandering boardwalk and seating nodes with seat walls are proposed to be installed among vegetated dunes and provide access to the beach. The dunes have also been redesigned since the previous DRB meeting, and the proposal no longer provides significant view corridors from the upland areas to the Bay. Finally, a dune habitat education area is proposed adjacent to the boardwalk. The Port has stated that the goal of the vegetated dunes is not to create natural and sensitive dune habitat in an area designed for human traffic, but to utilize them to reduce sand drift and help differentiate MHSP elements.

Interpretive Center/Educational Building and Interpretive Center Expansion. As a replacement for these indoor educational facilities, the Port has proposed an outdoor education hub as described above.

Biological Research Field Station. This amenity was not built, and the Port has not proposed a replacement.

Community/Conference Center. This amenity was not built, and the Port has not proposed a replacement.

Maintenance Building. Rather than the planned maintenance building, the Port has been using a modular trailer, two shipping containers, and an overhang structure to serve as maintenance facilities. The Port has indicated that a more permanent solution may be implemented in the future but has not provided details.

² Exhibit 10 identifies two alternatives for the beach enhancement project associated with MHEA. BCDC staff understands that the Port and USACE, having concluded public engagement on this issue, and will be seeking approval for the preferred alternative 4, as displayed on Exhibits 25 through 27.

UP Mole (Exhibits 37-39)

Modular Elevator. At the UP Mole, the Port proposes to add a new modular elevator at the Observation Tower to replace the non-functioning elevator, restoring the ability for all visitors to access the top floor and enjoy panoramic views of the Port and Bay. Based on public comment received during the DRB meeting, the Port is exploring the possibility of extending the lift above the height of the tower to provide a lookout into the Port.

Parking Changes. Currently, all eight parking spaces at the UP Mole are designated as Americans with Disabilities Act (ADA)-accessible, per the requirements of the existing BCDC permit. This requires those without ADA parking placards to walk at least 0.4 miles one-way from the main parking area to reach the Mole, which is a considerable distance for some visitors. The Port proposes converting four of these spaces to general (non-ADA) parking, and one space for Port security and maintenance vehicles, to improve access to the Mole for those without ADA placards. Based on information provided by the Port, the park would still exceed the ADA-accessible parking requirements and provide ADA spaces in each parking area.

Additional Improvements. Additional proposed improvements may include a new picnic area and additional interpretive signage at the maritime observation station to allow MHSP visitors to observe Port operations.

Boat Docking Facilities at the UP Mole Notch. The Port has stated that, due to strong currents and the high volume of large vessel traffic in the Oakland Estuary, the notch is not an appropriate location for small vessels to dock as originally foreseen in the Master Plan. Based on feedback from the DRB during the July 2021 meeting to pursue the lowest cost option for the notch, the Port is not proposing any changes to the notch and is instead focusing on improvements elsewhere at MHSP and PVP.

Class I bicycle path along Middle Harbor Road (Exhibit 5)

The Port has stated that the required location of the bicycle path along Middle Harbor Road is not appropriate due to high truck traffic along the route and associated safety risks. The Port has been exploring alternative options to fulfill this requirement along 7th street instead. The Port is expected to present a proposed alternative alignment to the DRB sometime in mid-2022.

Transit Connections to the Park

At the July 2021 DRB, there was a question about the potential return of AC transit. The Port has stated that AC transit was stopped due to low usership, and the re-introduction of service is not included in the park proposal.

Management Plan

In addition to updating the Master Plan, the Port is also currently preparing an update to the MHSP Management Plan, including a process for managing special events. Based on information provided by the Port, it is not yet clear to what extent, if any, the update of the MHSP Management Plan would impact management of PVP, as the parks are currently managed under separate arrangements. The draft Management Plan has been updated since the July 2021 meeting, but the Port has stated the plan is not ready for review by the public; as such, it has not been included in the materials for the March 2022 DRB meeting. A general description of the management plan update is provided below.

The proposed Management Plan describes the purpose and goals of the update, the vision and mission of MHSP, and the Port of Oakland Strategic Plan. It then describes the Port's current and past experiences managing MHSP under two different management models (i.e., a management agreement with EBRPD from 2003-2009, and direct Port management from 2009 to present), including: operating expenses; revenue from picnics, film and photography, and special events; lessons learned for park maintenance; and park programming, partnerships, and park visitation.

The draft plan then describes the proposed changes to the Master Plan and associated construction cost estimates; future park programming, including environmental education and science, maritime and historical/cultural, and permits and rentals; and estimated revenue from park use fees including outdoor events, picnics, commercial film and photography, for-profit education, corporate sponsorships, and concessions.

The plan then conceptually analyzes three separate possible park management scenarios: 1) direct Port management; 2) EBRPD management; and 3) private entity management. The draft plan describes the structure, estimated expenses and revenues, and advantages and disadvantages of each option, as well as the Port's previous experience with options 1 and 2. However, the Port has not yet proposed a preferred option.

Finally, the draft plan describes the estimated annual reserves required for capital improvements at MHSP and PVP.

Special Events (Exhibit 40)

As described above, the Port held numerous large special events at MHSP without approval from, or notice to, BCDC. This has created conflict between BCDC and Port staff, and in some cases has resulted in adverse impacts to MHSP. As there is no authorization for large special events in the BCDC permit, the Port currently needs to seek BCDC plan approval for every large special event it wishes to hold where MHSP is partially or entirely closed to the public. Both agencies agree this is an inefficient process. In 2019, the Port voluntarily placed a moratorium on large special events until BCDC and Port staff could agree to standard conditions for special events that could be incorporated into a permit amendment. However, this issue has not been prioritized in recent times due to the COVID-19 pandemic.

As the situation of the pandemic improves and the Port works to update the Master Plan and Management Plan, discussions around special events have renewed. The current draft of the proposed Management Plan discusses special event management, but not yet in great detail. The revenue estimates in the draft plan are based on four small special events (i.e. 1,000 to 4,000 attendees) and two large special events (i.e. over 4,000 attendees) per year. These special events would close off portions or all of MHSP to the public, and are distinct from picnic reservations which can host up to 1,500 people (such as for corporate, church, and other group gatherings), but do not result in full or partial park closures. BCDC and Port staff have not yet agreed on the number and type of special events that would be permitted, nor on how the special events would be managed, but will continue to define these parameters for incorporation into the permit and updated Management Plan. Exhibit 40 indicates the potential locations of medium and small events, but does not indicate how larger events, if held, would be managed.

Community Engagement (Exhibits 55,56)

Extensive community outreach was conducted during the initial master planning of MHSP in the early 2000s. The Port is also currently conducting community outreach related to the Master Plan and Management Plan update. A public engagement plan was developed in January 2021 and submitted to BCDC for review. Next, six stakeholder meetings were held starting in February 2021 with a range of groups, including West Oakland community and neighbors group representatives, the park education program representatives, Golden Gate Audubon Society, EBRPD, the City of Oakland, Port staff, and other stakeholders. The Port then launched an online microsite in April 2021 and conducted a survey for public feedback, which was completed in May 2021. Finally, the Port hosted a community engagement event on November 17, 2021 to discuss the plan updates.

Further, the Port has hosted additional one-on-one meetings with the Audubon Society (May 2021) and the Bay Area Sea Kayakers (August 2021) to gather feedback on activating the parks and related considerations on potential improvements. In addition, the Port held a follow-up meeting on December 2, 2022, with Tara Donovan, the naturalist running the “Stepping Out Stepping In” educational program at the Port, to discuss the educational hub design. The Port has also hosted two meetings with EBRPD staff on April 30, 2021, and January 12, 2022, to gather feedback on the feasibility of the Master Plan designs (and their respective maintenance). According to Port staff, the public outreach effort has informed the current design presented to the DRB, and a summary of stakeholder feedback is shown on Exhibit 55. The Port will continue engaging the community on the final design.

Sea Level Rise (Exhibit 11)

The project includes updates to existing park areas that were constructed before relevant Bay Plan policies for sea level rise were implemented. Sea level rise resilience of any newly proposed features has not yet been fully analyzed and will be considered in the future as the design of the site progresses. A conceptual figure adapted from the Commission’s Bay Area Flood Explorer (Exhibit 11) shows the expected effects of two feet of sea level rise and a 100-year storm tide. Otherwise, the sea level rise information has not been updated since the July 2021 DRB meeting.

Approval Timeline & Next Steps (Exhibit 3)

The Port is currently seeking feedback from the DRB and relevant stakeholders on the Master Plan update. The Port will continue refining the draft Master Plan and Management Plan updates throughout 2022. The updates will likely require a material amendment to the permit for MHSP, which the Port is currently expected to apply for in January of 2023. Based on this timeline, it is likely the BCDC Commission would vote on the proposed material amendment sometime in mid-2023.

If the proposed changes at PVP were implemented, those would also require a material or non-material amendment to the PVP permit. The timeline has not yet been developed for this amendment, but would likely be similar to the timeline for the MHSP permit.

Summary of Issues Raised at July 2021 DRB Meeting that Have Not Been Addressed

As described above, the Port has incorporated feedback it received at the July 2021 DRB and other community meetings into the proposed project description. Certain feedback received at the previous DRB meeting have not been incorporated into the design, as summarized below for the DRB’s consideration:

- Appropriate lighting at the formal and informal areas of the park (i.e., increased lighting at Point Arnold, and decreased lighting at the UP Mole).
- Increased fishing amenities.
- Additional formalized bird watching areas, such as bird blinds.
- Shallow rocky subtidal habitat for environmental education near the training walls.
- A wetland/lagoon area behind the beach.
- Smaller event programming every weekend to activate the parks (The Port is proposing special events and diverse programming, but it is not clear how frequently these events will occur).

Commission Bay Plan Findings, Policies, and Guidelines

San Francisco Bay Plan Policies

It is important to note that the Commission, with input from the DRB, previously determined that MHSP, as permitted and required in the Permit and its amendments, represents maximum feasible public access associated with the Berths 55-58 project. Likewise, PVP was determined to represent maximum feasible public access for the container terminal development project at Berth 30. MHSP and PVP were key components of the set of public benefits that allowed the Commission to authorize the Port's fill projects.

The proposed Master Plan update does not propose new fill or development that would trigger additional public access requirements. However, as described above, BCDC staff has determined that the Port is not in compliance with several key public access requirements of the MHSP and PVP permits, and as such is not currently providing maximum feasible public access as required. The Port has proposed updates to the public access areas, as a means of both remedying past violations and providing the public with an improved, modern park experience, and these improvements must comply with relevant policies as summarized below. Relevant San Francisco Bay Plan (Bay Plan) policies are summarized below.

Public Access Policy No. 2 states, in part, that "...maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline..."

Public Access Policy No. 4 states, in part, that "public access should be sited, designed and managed to prevent significant adverse effects on wildlife" while Policy No. 5 states, in part, that "public access that substantially changes the use or character of the site should be sited, designed, and managed based on meaningful community involvement to create public access that is inclusive and welcoming to all and embraces local multicultural and indigenous history and presence..."

Regarding sea level rise, the Policies state, in part, that "public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding" (Policy No. 6) and that "any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby" (Policy No. 7).

Further, these policies state, in part, that “access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare” (Policy No. 10) and that “...improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should provide barrier free access for persons with disabilities, for people of all income levels, and for people of all cultures to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs – including using appropriate languages or culturally-relevant icon-based signage” (Policy No. 8).

Bay Plan Map No. 5 includes the shoreline at the project site as a Waterfront Park, Beach Priority Use Area. Map Policy No. 3 states: “Middle Harbor Shoreline Park - Preserve industrial character of park. Preserve fishing access, picnic facilities, beach, historic features and community gathering and entertainment venues. Provide interpretation of port operations, historic and cultural factors. Provide non-motorized small boat access. Protect eelgrass beds. Provide signage regarding fish consumption advisories for anglers.”

The Bay Plan **Recreation Policy** No. 1 states, in part, that “diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population... and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels...” The following facilities should be encouraged in waterfront parks:

1. To capitalize on the attractiveness of their bayfront location, parks should emphasize hiking, bicycling, riding trails, picnic facilities, swimming, environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities.
2. Public launching facilities for a variety of boats and other water-oriented recreational craft, such as kayaks, canoes and sailboards, should be provided in waterfront parks where feasible.
3. Limited commercial recreation facilities, such as small restaurants, should be permitted within waterfront parks provided they are clearly incidental to the park use, are in keeping with the basic character of the park, and do not obstruct public access to and enjoyment of the Bay. Limited commercial development may be appropriate (at the option of the park agency responsible) in all parks shown on the Plan maps except where there is a specific note to the contrary.
4. Trails that can be used as components of the San Francisco Bay Trail, or links between them should be developed in waterfront parks. San Francisco Bay Trail segments should be located near the shoreline unless that alignment would have significant adverse effects on Bay resources; in this case, an alignment as near to the shore as possible, consistent with Bay resource protection, should be provided.
5. Bus stops, kiosks and other facilities to accommodate public transit should be provided in waterfront parks to the maximum extent feasible. Public parking should be provided in a manner that does not diminish the park-like character of the site. Traffic demand management strategies and alternative transportation systems should be developed where appropriate to minimize the need for large parking lots and to ensure parking for recreation uses is sufficient.

The Bay Plan **Appearance, Design and Scenic Views** policies state, in part, that “all bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay” and that “maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas...”

The **Public Access Design Guidelines** state that public access should feel public, be designed so that the user is not intimidated nor is the user’s appreciation diminished by structures or incompatible uses, and that there should be visual cues that public access is available for the public’s use by using site furnishings, such as benches, trash containers, lighting, and signage. The guidelines further state that public access areas should be designed for a wide range of users and maximize user comfort by designing for weather and day and night use, and that each site’s historical, cultural and natural attributes should provide opportunities for creating projects with a “sense of place” and a unique identity. The Bay Plan Public Access policies on these Design Guidelines state that “the Design Review Board should encourage diverse public access to meet the needs of a growing and diversifying population. Public access should be well distributed around the Bay and designed or improved to accommodate a broad range of activities for people of all races, cultures, ages, income levels, and abilities.”

Board Questions

The Board’s advice and recommendations are sought on the following issues regarding the updated Master Plan and Management Plan proposal. Staff recommends the Board frame its remarks around the public access objectives found in the Commission’s Public Access Design Guidelines. The seven objectives for public access are:

- Make public access **PUBLIC**;
- Make public access **USABLE**;
- Provide, maintain and enhance **VISUAL ACCESS** to the Bay and shoreline;
- Maintain and enhance the **VISUAL QUALITY** of the Bay, shoreline and adjacent developments;
- Provide **CONNECTIONS** to and **CONTINUITY** along the shoreline;
- Take advantage of the **BAY SETTING**; and
- Ensure that public access is **COMPATIBLE WITH WILDLIFE** [and, at this site, with adjacent Port uses] through siting, design and management strategies.

In addition, Staff has the following specific questions for the Board’s consideration:

1. What advice does the Board have on the project’s success in achieving its objectives, considering the Port’s division of proposed improvements between “Baseline Improvements” and subsequent Level 1 and Level 2 improvements (which will likely require additional funding)? For reference, the stated objectives are: Enhancing outdoor educational opportunities, facilitating connections with nature, nurturing physical well-being, sharing the cultural heritage of the site, and supporting socializing and gathering activities.
2. What advice and considerations does the Board have for the transition between the lawn and beach to make the two spaces better connected and inviting to the shoreline?

3. What advice and considerations does the Board have on the appropriate balance of planting and landscape changes needed to meet the goals of park visitors, enhance native habitat value, and reduce maintenance costs?
4. What advice and considerations does the Board have on holding special events (larger concerts) at the park?
5. What advice does the Board have for designing the public access areas and amenities to be resilient and adaptive to sea level rise, including provisions for the Management Plan?